

Message Text

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FM SECSTATE WASHDC

TO AMCONSUL CAPE TOWN IMMEDIATE

AMEMBASSY PRETORIA IMMEDIATE

INFO AMCONSUL DURBAN

AMCONSUL JOHANNESBURG

AMEMBASSY LONDON

AMEMBASSY PARIS

USMISSION USUN NEW YORK

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E.O. 11652: N/A

TAGS: PINS, WA, SHUM

SUBJECT: BISHOP WOOD'S EXPULSION

REF: (A) PRETORIA 2208

(B) CAPE TOWN 676

(C) STATE 141417

(D) CAPE TOWN 682

1. DEPARTMENT ANXIOUS TO HAVE THE ORDER OF EXPULSION OF
BISHOP AND MRS. WOOD STAYED OR REVERSED. AS EXPULSION

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ORDER IS NOT TO BE FINALLY ENFORCED UNTIL NOON MONDAY,
JUNE 23, EMBASSY SHOULD MAKE EFFORT TO DELIVER AIDE-MEMOIRE
(PARA 4) TO APPROPRIATE LEVEL IN DFA ON JUNE 21. IF THIS
IS IMPOSSIBLE BECAUSE OF THE SEASONAL CHANGE OF CAPITALS,

EMBASSY SHOULD SEEK TO COMMUNICATE SUBSTANCE BY TELEPHONE TO HIGHEST AVAILABLE OFFICIAL AND THE AMBASSADOR SHOULD DELIVER MESSAGE WHEN HE SEES SECRETARY FOURIE NEXT WEEK (REFTEL (B)). IF DELIVERY IS DELAYED PLEASE MAKE APPROPRIATE MODIFICATIONS IN TEXT OF THE AIDE-MEMOIRE.

2. THIS MESSAGE IS INTENDED TO BE AN INTERIM ONE. IT IS BASED ON THE DENIAL OF CERTAIN WELL-RECOGNIZED PROCEDURAL RIGHTS IN DEPORTATION CASES AND ON THE INTERNATIONAL CHARACTER OF NAMIBIA. IT CONTAINS LANGUAGE WE CUSTOMARILY USE IN REPRESENTATIONS ON THE DEPORTATION OF AMERICAN CITIZENS. WE MAY LATER MAKE REPRESENTATIONS ON MORE SUBSTANTIVE GROUNDS (E.G. DENIAL OF FREEDOM OF RELIGION), AS IN THE BISHOP MIZE CASE, ONCE WE HAVE MORE INFORMATION ON OFFICIAL REASONS FOR EXPULSION, BUT FOR NOW ARE CONFINING OURSELVES TO REPRESENTATIONS ON THE DENIAL OF PROCEDURAL JUSTICE.

3. WHEN AIDE-MEMOIRE IS DELIVERED FOLLOWING TWO POINTS SHOULD BE MADE ORALLY: (1) WE ARE CONCERNED ABOUT THE EXPULSION OF THE BISHOP AS WELL AS ABOUT THAT OF MRS. WOOD. (2) THIS AIDE-MEMOIRE CONSTITUTES OUR INITIAL RESPONSE TO THE EXPULSION. AS WE BECOME BETTER AWARE OF THE CIRCUMSTANCES OF THE CASES, WE MAY MAKE FURTHER REPRESENTATIONS TO SAG.

4. TEXT (OMITTING HONORIFIC PORTIONS): QUOTE. THE GOVERNMENT OF THE UNITED STATES HAS BEEN MADE AWARE OF THE ORDER OF EXPULSION ISSUED ON JUNE 16, 1975, BY THE SOUTH WEST AFRICA LEGISLATIVE ASSEMBLY, UNDER AUTHORITY OF THE UNDESIRABLES REMOVAL PROCLAMATION (1920), AGAINST AN AMERICAN CITIZEN, MRS. CATHLEEN WOOD, AND HER HUSBAND, BISHOP RICHARD WOOD, FROM THE TERRITORY OF NAMIBIA. THE ORDER DIRECTS MRS. WOOD AND HER HUSBAND TO LEAVE NAMIBIA NOT LATER THAN NOON ON JUNE 23, 1975. TO THE BEST OF OUR KNOWLEDGE, MRS. WOOD AND HER HUSBAND HAVE NOT BEEN INFORMED OF THE REASONS FOR THEIR EXPULSION NOR GIVEN A LIMITED OFFICIAL USE
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HEARING AT WHICH THEY MIGHT CONTEST THE ACTIONS TAKEN AGAINST THEM.

QUOTE. THE GOVERNMENT OF THE UNITED STATES WISHES TO REITERATE TO THE GOVERNMENT OF SOUTH AFRICA ITS VIEWS, WHICH HAVE BEEN COMMUNICATED TO YOUR GOVERNMENT BEFORE, ON THE SUBJECT OF DEPORTATION. WHILE THE GOVERNMENT OF THE UNITED STATES GENERALLY RECOGNIZES THE RIGHT OF A SOVEREIGN STATE TO EXCLUDE OR EXPEL ALIENS FROM TERRITORY UNDER ITS CONTROL, SUCH EXPULSION MAY NOT, CONSISTENT WITH GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW, BE EFFECTED IN A MANNER THAT VIOLATES MINIMUM

STANDARDS OF PROTECTION WHICH MUST BE AFFORDED EACH INDIVIDUAL. THE GOVERNMENT OF THE UNITED STATES BELIEVES THAT EXPULSIONS WHICH INTER ALIA ARE ARBITRARY OR DO NOT AFFORD THE INDIVIDUAL SUFFICIENT OPPORTUNITY TO SAFEGUARD HIS OR HER PROPERTY OR FAMILY VIOLATE INTERNATIONAL LAW. INTERNATIONAL LAW ALSO REQUIRES THAT, TO PROTECT SUCH FUNDAMENTAL RIGHTS AS FREEDOM FROM DISCRIMINATORY AND ARBITRARY TREATMENT, THE EXPELLING STATE MUST ACCORD THE INDIVIDUAL CONCERNED CERTAIN PROCEDURAL RIGHTS, INCLUDING PROVISION FOR ADEQUATE NOTICE OF THE SPECIFIC REASONS FOR THE EXPULSION AND OPPORTUNITY FOR THE

INDIVIDUAL (AND HIS OR HER GOVERNMENT) TO HAVE A HEARING ON AND RESPOND TO ALLEGATIONS UNDERLYING THE DEPORTATION.

QUOTE. IT IS THE OPINION OF THE GOVERNMENT OF THE UNITED STATES THAT THESE OBLIGATIONS ARE SIGNIFICANTLY AUGMENTED, IN THE CASE OF EXPULSIONS FROM THE TERRITORY OF NAMIBIA, BY THE PECULIAR INTERNATIONAL CHARACTER OF THAT TERRITORY UNDER INTERNATIONAL LAW. IN PARTICULAR, THE GOVERNMENT OF THE UNITED STATES WISHES TO REPEAT ITS VIEW, WHICH WE HAVE PREVIOUSLY BROUGHT TO THE ATTENTION OF THE GOVERNMENT OF SOUTH AFRICA, THAT THE APPLICATION OF THE UNDESIRABLES REMOVAL PROCLAMATION (1920) IN THE TERRITORY OF NAMIBIA VIOLATES THE OBLIGATIONS OF THE GOVERNMENT OF SOUTH AFRICA UNDER INTERNATIONAL LAW TO WITHDRAW ITS ADMINISTRATION FROM THE TERRITORY AND TO RESPECT THE RIGHTS OF THE TERRITORY'S INHABITANTS. WE THEREFORE CONSIDER THAT EXPULSIONS FROM THE TERRITORY LIMITED OFFICIAL USE
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MADE UNDER THE AUTHORITY OF THAT PROCLAMATION ARE UNLAWFUL.

QUOTE. THE GOVERNMENT OF THE UNITED STATES REQUESTS THE GOVERNMENT OF SOUTH AFRICA TO INFORM IT OF THE SPECIFIC REASONS FOR THE EXPULSION OF MRS. WOOD AND HER HUSBAND FROM THE TERRITORY OF NAMIBIA. THE GOVERNMENT OF THE UNITED STATES URGES THE GOVERNMENT OF SOUTH AFRICA TO RESCIND THE EXPULSION ORDER ISSUED AGAINST MRS. WOOD AND HER HUSBAND, OR TO STAY IT PENDING THEIR BEING AFFORDED ADEQUATE NOTICE OF THE SPECIFIC CHARGES ON THE BASIS OF WHICH THEY HAVE BEEN DIRECTED TO LEAVE THE TERRITORY OF NAMIBIA, AND GIVEN A MEANINGFUL OPPORTUNITY TO BE HEARD ON THE SUBSTANCE OF THOSE CHARGES. END QUOTE. KISSINGER

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